

Douglas P. Desjardins
CLAPP, DESJARDINS & ELY, PLLC
444 North Capitol Street, NW
Hall of the States, Suite 828
Washington, D.C. 20001
(202) 638-5300/Facsimile (202) 393-1725
dpd@cdelaw.net

Robert B. Hopkins, P.C., Bar No.: 73143
LANDYE BENNETT BLUMSTEIN LLP
3500 Wells Fargo Center
1300 SW Fifth Avenue
Portland, OR 97201
(503) 224-4100/Facsimile (503) 224-4133
rhopkins@landye-bennett.com

Of Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

LAURIE JONES, individually, and as
Personal Representative of the ESTATE OF
CHRISTOPHER JONES, deceased,

Plaintiff,

vs.

CIRRUS DESIGN CORPORATION and
AVIDYNE CORPORATION,

Defendants.

CIRRUS DESIGN CORPORATION,

Third-Party Plaintiff,

vs.

JENNIFER S. LINCK or JANE DOE or
JOHN DOE, who may be appointed as
personal representative of the Estate of
PAUL SCHIOLER-LINCK,

Third-Party Defendant.

Case No. CV 06-1656 ST

**PLAINTIFF'S MOTION FOR
SANCTIONS AGAINST DEFENDANT
AVIDYNE CORPORATION FOR
SPOILIATION OF EVIDENCE**

[ORAL ARGUMENT REQUESTED]

CERTIFICATE OF COMPLIANCE WITH L.R. 7.1

In compliance with L.R. 7.1, plaintiff Laurie Jones' counsel hereby certifies that counsel have made a good faith effort, through personal or telephone conferences, to resolve this dispute and have been unable to reach agreement.

MOTION

Plaintiff moves for the following sanctions against Avidyne Corporation for its spoliation of evidence, in particular the primary flight display from the subject aircraft. The sanctions requested by plaintiff consist of the following:

1. Striking the answer and dismissing the defenses of, and entering default judgment against, defendant Avidyne Corporation as to liability;
2. In the alternative, should the sanction requested in paragraph 1 above be denied, ordering that it is deemed as fact against defendant Avidyne Corporation that the primary flight display on the subject aircraft was defective and malfunctioning for which defendant Avidyne Corporation is responsible;
3. In the alternative, should the sanctions requested in paragraphs 1 and 2 above be denied, precluding defendant Avidyne Corporation from presenting any expert testimony or other evidence that the primary flight display on the subject aircraft was not defective and malfunctioning for which defendant Avidyne Corporation is responsible;
4. In the alternative should the sanctions requested specified in paragraphs 1, 2 and 3 above be denied, giving jury instructions of adverse inferences against defendant Avidyne Corporation, including instructing that because of the spoliation of evidence by defendant Avidyne Corporation the jury is required to presume that the primary flight display of the subject aircraft was defective and malfunctioning for which defendant Avidyne Corporation is responsible;

5. Awarding attorneys' fees to plaintiff; and
6. Such other sanctions as the Court deems appropriate.

In support of this Motion, plaintiff submits Plaintiff's Memorandum in Support of Plaintiff's Motion for Sanctions Against Defendant Avidyne Corporation for Spoliation of Evidence, and the Affidavits of Douglas Desjardins, John Bloomfield, and Donald Sommer.

Dated this 31st day of July, 2009.

Douglas P. Desjardins (*pro hac vice*)
CLAPP, DESJARDINS & ELY, PLLC

and

Robert B. Hopkins
LANDYE BENNETT BLUMSTEIN LLP

By: s/ Robert B. Hopkins
Robert B. Hopkins, P.C., OSB #73143
Douglas P. Desjardins
Of Attorneys for Plaintiff